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Attorney for Defendants, Township of Hamilton, Police Chief Stacy
Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey,
Patrol Officer James A. Esposito

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY - CAMDEN**

JASON D. DARE,
Plaintiff,

v.

TOWNSHIP OF HAMILTON, POLICE
CHIEF STACY TAPPEINER,
SERGEANT CHRISTOPHER
GEHRING, CAPTAIN MICHAEL
PETUSKEY, PATROL OFFICER
JAMES A. ESPOSITO, AND
JOHN/JANE DOES (1-10-),
Defendants.

Civil Action
Number 13-cv-

NOTICE OF REMOVAL

**TO THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY:**

This Notice of Removal for the Defendants, Township of Hamilton, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey and Patrol Officer James A. Esposito, by the undersigned attorney, A. Michael Barker, Esquire of the Law Offices of Barker, Scott, Gelfand & James, in accord with the provisions of 28 USC §1446, respectfully show that:

1. The Township of Hamilton, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, Patrol Officer James A. Esposito, and John/Jane Does 1-10 are Defendants in a civil action brought in the Superior Court of New Jersey, Law Division, Atlantic County, entitled:

Jason D. Dare v. Township of Hamilton, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, Patrol Officer James A. Esposito, and John/Jane Does (1-10), bearing Atlantic County Docket Number ATL-L-751-13.

2. The first receipt, through service or otherwise, by the Defendants, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito, was the receipt of a Summons and Complaint on February 25, 2013, by Lea Brewer at the Township of Hamilton Police Department, 61-1 13th Street, Mays Landing, New Jersey.

A copy of the Summons and Complaint is attached hereto as Exhibit "A" and a copy of the transmittal page prepared by Lea Brewer, dated March 6, 2013 is attached hereto as Exhibit "B".

3. The Summons and Complaint, attached hereto as Exhibit "A" and identified above, constitute all process, pleadings, and orders received by the Defendants, Police Chief Stacy

Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito in this action.

4. This Notice of Removal is timely filed, pursuant to 28 USC §1446(b), allowing the Defendants, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito, to remove, pursuant to 28 USC §1331, on the basis of federal question jurisdiction, since it is filed within thirty (30) days of receipt by the Defendants of a copy of the Summons and Complaint.

The Summons and Complaint constitute the first notice to the Defendants, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito, that the Plaintiff, Jason D. Dare, was asserting federal claims which would permit removal to this Court.

5. The Plaintiff, Jason D. Dare, has complained:
 - a. in the preliminary statement of the Complaint at page 2 of the Complaint the Plaintiff alleges that:

“Defendants’ actions against Plaintiff are in violation of the United States Civil Rights Act, 41 U.S.C. §§1983, (Deprivation of Rights), 1985 (Conspiracy) and 1986 (Neglect to Prevent Conspiracy)(hereinafter “USCRA”); and the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 (hereinafter “NJCRA”), based on violations of the Fourth, Fifth and Fourteenth Amendment-rights and State Constitution”.
 - b. under the heading of “Factual Allegations” at paragraph 32 – 34, the Plaintiff alleges the following:

“As a result of Plaintiff’s familial relationship to HTPD (Patrol Officer Nicholas J. Dare and the pending employment discrimination, harassment and retaliation claims between Officer Nicholas Dare and Defendants, Plaintiff Trooper Dare was targeted and retaliated against by the Defendants, including on December 16, 2011,

resulting in the deprivation of Plaintiff's civil rights as afforded by the New Jersey Constitution and the United States Constitution".

"As a result of Plaintiff's familial relationship to HTPD Patrol Officer Nicholas J. Dare and the pending employment discrimination, harassment and retaliation claims between Officer Nicholas Dare and Defendants, Defendants conspired to deprive Plaintiff Trooper Dare of his civil rights".

"By their actions, Defendants neglected to prevent the conspiracy to deprive Plaintiff and the violations of the civil rights of Plaintiff".

- c. for Count One of the Complaint the Plaintiff alleged as follows:

"DEFENDANTS' VIOLATIONS OF THE UNITED STATES AND NEW JERSEY CIVIL RIGHTS ACTS"

"By committing the above actions, Defendants have violated the United States Civil Rights Act as well as the 4th, 5th and 14th Amendments to the U.S. Constitution".

"There was participation by the upper management of the Township of Hamilton Police Department, under color of State law, in connection with the deprivation of the rights of Plaintiff, that evidences the customs, patterns, practices, and procedures of Defendants to retaliate and violate the civil rights of Plaintiff."

- 6. Accordingly, this suit is a civil action over which the United States District Court has original jurisdiction, pursuant to 28 USC §1331; and, therefore, may be removed to the United States District Court, pursuant to 28 USC §1441(a) and 28 USC §1441(b).
- 7. The United States District Court also has supplemental jurisdiction, pursuant to 28 USC §1367(a) over the state claims

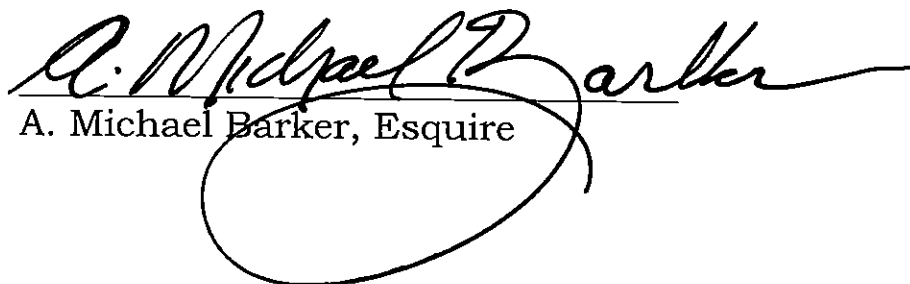
alleged in the Plaintiff's Complaint, and such supplemental claims are subject to removal, pursuant to 28 USC §1441(c).

8. The Defendants, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito, reserve the right to raise all defenses and objections to the state action(s) after it is removed to the United States District Court for the District of New Jersey.
9. The Defendants, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito, reserve the right to amend this Notice of Removal.

WHEREFORE, the Defendants, Police Chief Stacy Tappeiner, Sergeant Christopher Gehring, Captain Michael Petuskey, and Patrol Officer James A. Esposito, pray that this cause proceed in its entirety in the United States District Court as an action properly removed thereto.

Respectfully Submitted:

BARKER, SCOTT. GELFAND & JAMES
a Professional Corporation

By: 
A. Michael Barker, Esquire

Dated: March 18, 2013